



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-895]

Common Alloy Aluminum Sheet from India: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of common alloy aluminum sheet (aluminum sheet) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation January 1, 2019, through December 31, 2019.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jasun Moy or Nicolas Mayora, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8194 or (202) 482-3053, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 2020, Commerce published in the *Federal Register* the preliminary affirmative determination in the LTFV investigation of aluminum sheet from India, in which we also postponed the final determination until March 1, 2021.¹ We invited interested parties to

¹ See *Common Alloy Aluminum Sheet from India: Preliminary Affirmative Determination of Sales at Less-Than-Fair-Value, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 65377 (October 15, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.²

Scope of the Investigation

The products covered by this investigation are aluminum sheet from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.³ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.⁴ Commerce is not modifying the scope language as it appeared in the *Preliminary Determination*. *See* Appendix I for the final scope of the investigation.

Analysis of Comments Received

All the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly

² *See* Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Common Alloy Aluminum Sheet from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ *See* Memorandum, "Antidumping and Countervailing Duty Investigations of Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 6, 2020 (Preliminary Scope Decision Memorandum).

⁴ *See* Memorandum, "Antidumping and Countervailing Duty Investigations of Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and Turkey: Scope Comments Decision Memorandum for the Final Determinations," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁵

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings related to our request for information in lieu of verification, we made certain changes to the margin calculations for Manaksia Aluminum Company Limited (MALCO). For a discussion of these changes, *see* the “Margin Calculations” section of the Issues and Decision Memorandum.

Use of Adverse Facts Available

One of the respondents, Hindalco Industries Limited (Hindalco), failed to submit a timely response to Commerce’s supplemental section A questionnaire and did not timely file an extension request. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Act, Commerce assigned Hindalco a rate based on partial adverse facts available (AFA). As discussed in the Issues and Decision Memorandum, we continue to find that the application of partial AFA pursuant to sections 776(a) and (b) of the Act is warranted with respect to Hindalco.⁶

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the

⁵ See Commerce’s Letter, “Request for Documentation,” dated November 17, 2020; *see also* Commerce’s Letter, “Request for Documentation,” dated November 17, 2020; *see also* Hindalco’s Letter, “Common Alloy Aluminum Sheet from India: Hindalco Industries Limited’s Response to Request for Documentation,” dated November 25, 2020; and MALCO’s Letter, “Common Alloy Aluminium Sheet from India: Manaksia Aluminium Company Limited Responding to In-Lieu of Verification Questionnaire Response,” dated November 27, 2020.

⁶ See Issues and Decision Memorandum at Comment 2.

weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Commerce has determined that the estimated weighted-average dumping margin for MALCO is zero. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Hindalco. Consequently, the rate calculated for Hindalco is also assigned as the rate for all other producers and exporters.⁷

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent)
Hindalco Industries Limited	47.92	44.64
Manaksia Aluminium Company Limited	0.00	0.00
All Others	47.92	44.64

Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend the liquidation of all appropriate entries of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption on or after October 15, 2020, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*, except for those entries of

⁷ *Id.* at Comment 19.

subject merchandise produced and exported by MALCO. Because the estimated weighted-average dumping margin for MALCO is zero, we will not direct CBP to suspend liquidation of entries of the subject merchandise it produced and exported.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), where appropriate, we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin or estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Because the estimated weighted-average dumping margin for MALCO is zero, entries of shipments of subject merchandise from this company will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce also applies the exclusion from the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce will direct CBP not to suspend liquidation of entries of subject merchandise produced and exported by MALCO. However, entries of shipments of subject merchandise from this company in any other producer/exporter combination (*i.e.*, where MALCO is either the producer or the exporter, but not both), or by third parties that sourced subject merchandise from the excluded producer/exporter combination, will be subject to suspension of liquidation at the all-others rate.

Because the estimated weighted-average dumping margin is zero for the producer/exporter combination identified above, entries of shipments of subject merchandise from this producer/exporter combination will be excluded from the potential antidumping duty

(AD) order. Such an inclusion will not be applicable to merchandise exported to the United States by this respondent in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combination.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce made an affirmative determination for countervailable export subsidies (*i.e.*, Advanced Authorization Program, Duty Drawback Program, Export Promotion of Capital Goods Scheme, Merchandise Export from India Scheme, and Export-Oriented Unit Scheme), Commerce has offset the estimated weighted-average dumping margins by the appropriate CVD rate.⁸ In the companion CVD investigation, we have found export subsidies for all producers and exporters of subject merchandise. However, suspension of liquidation for provisional measures in the companion CVD case has been discontinued. Therefore, we are not instructing CBP to collect cash deposits based upon the estimated the estimated weighted-average dumping margins adjusted for export subsidies at this time. Any such adjusted cash deposit rate may be found in the “Final Determination” section above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of aluminum sheet no later than 45 days after this final

⁸ See *Common Alloy Aluminum Sheet from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 49631 (August 14, 2020), and accompanying Preliminary Decision Memorandum.

determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, AD duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: March 1, 2021.

Christian Marsh,

Acting Assistant Secretary

for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are common alloy aluminum sheet, which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy sheet within the scope of this investigation includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core. The use of a proprietary alloy or non-proprietary alloy that is not specifically registered by the Aluminum Association as a discrete 1XXX-, 3XXX-, or 5XXX-series alloy, but that otherwise has a chemistry that is consistent with these designations, does not remove an otherwise in-scope product from the scope.

Common alloy sheet may be made to ASTM specification B209–14 but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of this investigation is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H-19, H-41, H-48, H-39, or H-391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its movement through machines used in the manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3096, 7606.12.6000, 7606.91.3095, 7606.91.6095, 7606.92.3035, and 7606.92.6095. Further, merchandise that falls within the scope of this investigation may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3015, 7606.12.3025, 7606.12.3035, 7606.12.3091, 7606.91.3055, 7606.91.6055, 7606.92.3025, 7606.92.6055, 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the Preliminary Determination
- IV. Discussion of the Issues
 - Comment 1: Hindalco's Untimely Extension Request
 - Comment 2: Whether Commerce Should Continue to Apply Partial Adverse Facts Available (AFA) to Hindalco
 - Comment 3: Whether Commerce Should Deny Certain Price Adjustments for Hindalco
 - Comment 4: Whether Commerce Should Rely on FA for Hindalco's "Deemed Export" Sales
 - Comment 5: Whether Commerce Should Rely on FA for Hindalco's Home Market Warehousing Expenses
 - Comment 6: Whether Commerce Overstated the Affiliated Party Adjustment
 - Comment 7: Whether MALCO's Cost Information is Usable
 - Comment 8: MALCO's Missing Cost Data for U.S. Control Numbers (CONNUMs)
 - Comment 9: Appropriate Differential Pricing Methodology
 - Comment 10: Whether to Disallow Home Market Quantity and Early Payment Discounts
 - Comment 11: Whether Commerce Should Apply the Highest U.S. Commission Rate to All U.S. Sales
 - Comment 12: Whether to Disallow MALCO's Home Market Credit Expenses
 - Comment 13: Whether MALCO Has Properly Reported Its Packing Costs
 - Comment 14: Whether MALCO's Overall Costs Should Be Adjusted for the Cost of Home Market Returns
 - Comment 15: Whether MALCO's Reported Direct Materials Cost is Understated
 - Comment 16: Whether to Revise MALCO's General and Administrative (G&A) Expenses Ratio to Include Missing Expenses and to Correct the Cost of Goods Sold
 - Comment 17: Whether to Revise MALCO's Interest Expense Ratio
 - Comment 18: Constructed Value (CV) Profit
 - Comment 19: Selection of the All-Others Rate
- V. Recommendation